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**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

OWEN DIAZ,  
Plaintiff,  
v.  
TESLA, INC. DBA TESLA MOTORS, INC.,  
Defendant.

Case No. 3:17-cv-06748-WHO

## **JOINT CASE MANAGEMENT STATEMENT**

Date: October 4, 2022  
Time: 2:00 p.m.  
Place: Courtroom 2, 17th Floor  
Judge: Hon. William H. Orrick

Pursuant to the Court's July 12, 2022 Order (Dkt. 352), the parties hereby submit this joint case management statement addressing the upcoming retrial.

The parties have twice met and conferred regarding the scope of retrial, and set forth the following issues to be addressed at the October 4, 2022 Case Management Conference or at the Court's earliest convenience.

## **I. SCOPE OF RETRIAL**

At the July 12, 2022 hearing, Tesla raised an issue as to whether a retrial on damages alone is consistent with *Gasoline Products Co. v. Champlin Refining Co.*, 283 U.S. 494 (1931), and its progeny. The parties met and conferred about those issues on September 9 and 20, 2022, but failed to reach a resolution. The parties will continue to meet and confer about the proper scope of the retrial. If the parties reach agreement, they will promptly submit their agreement for the Court's review and approval. If the parties cannot agree as to the proper scope of the retrial, the parties propose the following schedule for briefing and hearing a motion by Tesla regarding the scope of the retrial:

- October 14, 2022: Tesla files motion regarding scope of retrial
- November 4, 2022: Diaz files opposition to motion regarding scope of retrial
- November 18, 2022: Tesla files reply to motion regarding scope of retrial
- December 7, 2022: Hearing on motion regarding scope of retrial

## **II. PRETRIAL SCHEDULE**

The parties have met and conferred regarding additional pretrial deadlines, and propose the following schedule:

- January 30, 2023: Deadline to exchange materials required by Section 1 of Civil Pretrial Order, including motions *in limine* and papers described in Civil L.R. 16-10(b)(7), (8), (9), and (10) (set by Pretrial Order (Dkt. 78))
- February 3, 2023: Deadline to file motions *in limine*
- February 8, 2023: Deadline to file proposed jury instructions, proposed forms of verdict, and proposed statements to be read to jury regarding first trial

- 1     • February 10, 2023: Deadline to file oppositions to motions *in limine*
- 2     • February 13, 2023: Deadline to file joint pretrial conference statement
- 3     • February 27, 2023: Pretrial Conference (set by July 12, 2022 Order (Dkt. 352))
- 4     • March 27, 2023: Jury Trial (set by July 12, 2022 Order (Dkt. 352))

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1 DATED: September 27, 2022

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By /s/ Larry Organ

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28 *Attorneys for Defendant Tesla Inc.*

1                   **ATTESTATION OF CONCURRENCE**

2                   I, Daniel Posner, am the ECF user whose ID and password are being used to file this  
3 JOINT CASE MANAGEMENT STATEMENT. Pursuant to Civil L.R. 5-1(h)(3), I hereby attest  
4 that each of the signatories identified above has concurred in the filing of this document.

5  
6 DATED: September 27, 2022

7                   By /s/ Dan Posner

8                   Daniel C. Posner

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